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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,114

06/30/2005

Marek Konstanczak

31815-101

4936

26486 7590 11/26/2008  
BURNS & LEVINSON, LLP  
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EXAMINER

VESRA, DINESH K

ART UNIT

PAPER NUMBER

3633

MAIL DATE

DELIVERY MODE

11/26/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/541,114		KONSTANCZAK, MAREK	
	<b>Examiner</b>		<b>Art Unit</b>	
	Dinesh Vesra		3633	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/23/2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. The previous Restriction requirement mailed on 9 July 2008 has been withdrawn. No claims have been withdrawn and claims 1-22 are herein addressed below.

### *Priority*

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

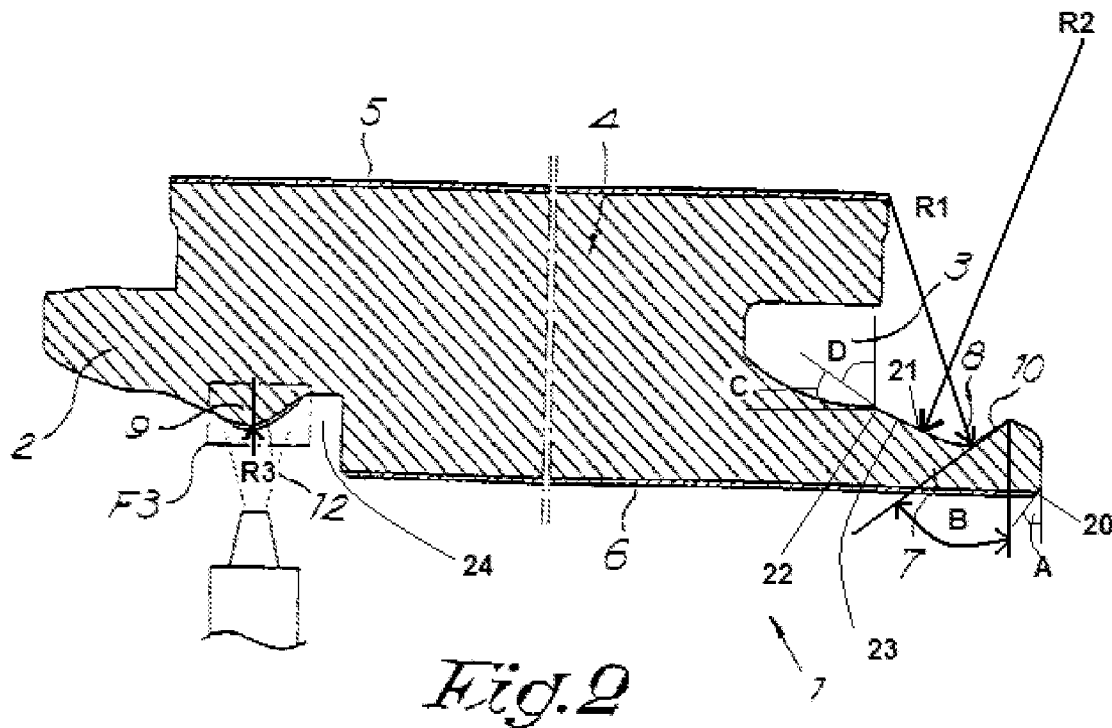
A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1, 4, 6, 7, 9, 11, 12, 14, 16, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Thiers (US Patent 6,766,622 B1).** Thiers discloses a floor panel (see Fig. 2 below) comprising a rectangular plate (Fig. 1) which , at least at two opposite sides, is provided with coupling parts in the form of a tongue (2) and a groove (3) at the opposite side; the coupling parts comprising integrated mechanical locking

Art Unit: 3633

means in the form of a protrusion (9) shaped on the tongue and a lip (10) bordering the groove; a bearing surface (8) of the lip being inclined to the center and downwards; the bearing surface of the lip at the longer arm of the groove being concave on an arch with a first radius (R1) a point of engagement of which is situated at an upper border of the panel; the protrusion of the groove having, in cross-section, the form of a circular section with a third radius (R3) which is shorter than the first radius; and a lower part of the lip and at a lower part of the panel from the side of the circular protrusion having second bearing surfaces (20) inclined in relation to a vertical plane into one direction at a first acute angle (A); wherein an internal surface (21) of a recess along the longer arm of the groove, situated close to the lip, is concave on an arc with a second radius (R2), which is longer than the first radius; comprising at least one longitudinal groove (24) which is situated from the bottom of the panel; wherein a bearing surface of the lip, near the upper edge of the lip, turns into a flat surface (10), which is inclined in relation to the vertical plane at a second acute angle (B), forming a nose; wherein a second internal surface (23) of a recess in a lower arm of the groove is flat and inclined in relation to a horizontal plane at a third acute angle (C), wherein the second internal surface, near the groove, turns into an offset (21) whose surface is flat, inclined in relation to a fourth acute angle (D); wherein the bearing surface (8) comprises a longitudinal recess shaped like a trough (8), in cross-section, the surface of which is concave on an arc of the third radius (R3) which is equal to a radius of the circular protrusion (Fig. 6); wherein said floor panel is composed of wood or wood derivative layerwise glued material (Column 5, lines 4-7).



### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 2, 3, 5, 8, 10, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thiers.** Thiers discloses the claimed inventions except for the values of the first, second, third, and fourth acute angles, as well as the ratios of the radii. It would have been an obvious matter of design choice to provide these angles in

Art Unit: 3633

Thiers with the same values, since applicant has not disclosed that making the first angle 30 degrees, the second angle 15 degrees, the third angle 20 degrees, and the fourth angle 38 degrees solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the angles of Thiers. The same holds true for the ratios of the third radius to the first radius being 1:3 and the first radius to the second radius being 1:1.5.

**7. Claims 15 and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thiers in view of Moriau et al. (US Patent 6,006,486).** Thiers discloses the floor panel as set forth above, but does not disclose wherein the short sides at the one edge comprise a groove in a near-rectangular form, in cross-section, wherein the lower arm of the groove comprises a triangular recess whereas at the opposite side it comprises a second tongue in near-rectangular form, which comprises a second protrusion shaped like a triangle in its lower part. Moriau et al. disclose wherein the short sides (26, 27 - Figs. 5-7) at the one edge comprise a groove (32) in a near-rectangular form, in cross-section, wherein the lower arm of the groove comprises a triangular recess (36) whereas at the opposite side it comprises a second tongue (31) in near-rectangular form, which comprises a second protrusion shaped like a triangle (30) in its lower part. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the short sides of the floor panel of Thiers with this type of locking mechanism in view of the teachings of Moriau et al. The motivation for doing so is that this type of tongue and groove locking mechanism is well known in the art and provides for quick and easy assembly of the panels.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinesh Vesra whose telephone number is (571) 270-5221. The examiner can normally be reached on Monday - Thursday 9:00 a.m. - 7:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dinesh Vesra/  
Examiner, Art Unit 3633

/Brian E. Glessner/  
Supervisory Patent Examiner, Art Unit 3633